

### REMARKS

In the Office Action dated March 30, 2004, claims 1-47 were rejected. Claims 1-47 are now pending in the application. In view of the remarks and amendments, Applicant respectfully requests reconsideration of the application.

Applicant has amended Claim 11 to show proper dependency on Claim 1.

Claim 40 was rejected under U.S.C. § 101 as being non-statutory subject matter. Claim 40 has been amended to more clearly claim the subject matter. Claim 40 includes utilizing "marked data" which is defined as indicating a time and wherein the marked data represents content that is broadcasted at the time and a "marking device". Accordingly, amended Claim 40 should be considered proper statutory subject matter.

Claims 1-47 were rejected under U.S.C. § 103(a) as being unpatentable over Rhoads et al. in view of Pocock.

Applicant has further amended Claims 1, 21, 33, 40, and 47 to include the limitation of:

wherein the marked data indicates a time selected by  
a user while utilizing content and the marked data  
represents the content that is broadcasted at the time

The Rhoads reference teaches embedding information about the content with the content. The information about the content includes title, artist name, and name of the distributor. (Rhoads, paragraphs 26-29)

The Pocock reference teaches a user device connected to a database containing programming descriptions further describing the programming and ancillary information. The database is indexed by the broadcast's program list or

schedule thereby allowing a user of the system to search and select a particular program description of interest. Hearing or viewing program descriptions enables users to preview excerpts and review broadcasts. (abstract)

The Pocock reference further teaches a telephone interface that provides the listener with the name of the artist and the song titles in the reverse order played during the broadcast ***starting with the current piece played***. When the potential purchaser reaches the song of interest, additional details can be related. (paragraph 013, emphasis added)

Applicant believes that neither the Rhoads nor the Pocock reference either singly or in combination teach the marked data that indicates a time selected by the user while utilizing the content. Applicant believes that Pocock teaches a database with broadcast times associated with each piece of content to merely order the pieces of content in reverse chronological order. Specifically, Pocock fails to teach that the "marked data" indicates a particular time that is selected by the user while the content is being broadcasted.

Further, Applicant believes that neither the Rhoads nor the Pocock reference either singly or in combination teach the marked data that represents content that is broadcasted at the time indicated by the marked data.

Therefore, the Rhoads reference in combination with the Pocock reference does not anticipate Claims 1, 21, 33, 40 and 47. Thus, independent Claims 1, 21, 33, 40 and 47 are in condition for allowance. In addition, Claims 2-20 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above. Claims 22-32 depend directly or indirectly on Claim 21 and therefore, are patentable for at least the same reasons discussed above. Claims 34-39 depend directly or indirectly on Claim 33 and therefore, are patentable for at least the same reasons discussed above. Claims 41-46 depend

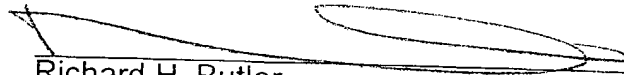
directly or indirectly on Claim 40 and therefore, are patentable for at least the same reasons discussed above.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all pending claims are in condition for allowance. Such allowance is respectfully requested.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to contact Richard H. Butler at (408) 223-9763.

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Respectfully submitted,



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